



Office of Mine Safety and Licensing



SPRING 2007 QUARTERLY REPORT

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Notes from the Executive Director



In 1971 I graduated from Morehead State University with a BA degree and a teaching certificate in secondary education. As a young man in the coalfields of eastern KY I considered the options. I had to provide for myself, my wife and hopefully soon, a young family. I made a decision that I have never regretted; I chose to become a coal miner. It was the legacy of my father and his father before him. Almost everyone I knew and had grown up with were coal miners. As a young person I was intrigued as the coal miners in my community set around and told coal-mining tales.

As a beginning coal miner, I remember how the older coal miners took me under their wing and took care of me during those early years. Some of their faces and memories will stay with me as long as I live. Like the coal miners before me, I now tell my own coal mining stories.

As a coal miner from eastern Kentucky let me thank the coal industry for 35 years of work that provided for the essential needs of my family. The past 35 years has had its ups and downs but it has been a good 35 years and I am thankful for all those I have met along the way.

On February 1, 2007 I accepted the position of Executive Director of the Office of Mine Safety and Licensing. My hope is that I can make positive contributions to the industry that has been so good to my family and me. As always I look forward to working with my friends in the industry as we work together to make sure all Kentucky coal miners come home safely every day.

Sincerely

Johnny Greene

Executive Director of the Office of Mine Safety and License



Fatal Accidents

January 1, 2007—March 31, 2007

03-12-07—Charles I Griffith—Double E Augering Inc—Machinery

Serious Accidents

January 1, 2007—March 31, 2007

01-29-07—Lester Cantrell—Apex Energy Inc—Machinery

02-02-07—Gary Roberts—Blue Diamond coal Co—Roof Fall

02-03-07—Christopher Kelly—Lone Mountain Proc—Machinery



On February 22, 2007, several members of the Hazard Mine Rescue team traveled to the Cumberland River Coal Company complex near Partridge, KY. The company is getting ready to develop a new underground mine in the middle Taggart seam which will be driven parallel to the old Cumberland River Coal Company, Tunnel

Mine, which was abandoned in 1991. An exploration of the abandoned mine was made to determine if any conditions existed which may pose a hazard to the development of the new Blackwood Mine



New Explosives and Blasting Director

Jeff Taylor started state government as a surface mine reclamation inspector in the DMRE London office from 1982 to 1993. He then transferred to the Frankfort DMRE central office in January 1993. While there he assisted in establishing the DMRE blasting inspector program in 2001 and managed that program for the last six years as well as managing the DMRE Field Enforcement Branch for the past 3 years. He is married to Brenda Taylor, a professional geologist employed by KY DEP, for 16 1/2 years. They live on a small farm in the Peaks Mill area in Franklin County with their three girls, ages 16, 12, and 8.

New Mine Safety Laws to take Effect

Comprehensive mine safety legislation will be enacted due to the passage of House Bill 207 which was passed during the 2007 General Assembly. Major provisions of the bill will become effective on different dates:

Key provisions effective June 27, 2007:

- Families are allowed right to intervene during the penalty phase of an administrative hearing for violations of mine safety laws;
- All OMSL accident investigations shall be closed hearings;
- The Commissioner's authority to assess civil monetary penalties is now extended beyond violations of roof control and ventilation plans to include mine seal construction plans and unsafe working conditions;
- At least two (2) EMT's or MET's shall be employed on every production shift, at least one (1) on every nonproduction shift. For underground mines, at least one (1) of the two (2) EMT's or MET's shall be underground at all times while miners are working in the mines;
- Surface pre-shift shall be conducted and record book maintained; equipment operators shall conduct pre-operational equipment checks, report all hazards which shall be repaired and logged in a record book;
- OMSL must be notified 48 hours prior to the commencement of any retreat mining or pillaring, every person participating in the retreat mining or pillaring must be trained in the pillar removal plan which must be verified by OMSL;
- All electrical work shall be performed by a certified electrician.

Key provision effective December 26, 2007:

- All lifeline cords will be made of flame resistant material.

Key provisions effective Jan.1, 2008:

- Mine operators shall provide multi gas detectors to each group of two or more miners working in close proximity of each other, the foreman, fireboss and to each person working alone. In addition, one multi gas detector shall be available at the working face for use by any miner. All miners shall have to be trained in the proper use and calibration of the device.

Key provisions effective Jan.1, 2009:

- OMSL will appoint a family liason to keep the families informed during an accident investigation;
- OMSL will conduct 6 underground inspections on each licensed mine annually, two (2) of which will be full electrical inspections;
- Foreman will be required to obtain 6 hours of annual Foreman re-training that shall be provided exclusively by OMSL.

For the full text of HB 207, go to <http://www.lrc.ky.gov/record/07RS/HB207.htm>

According to KRS 351.025 (6), the Office of Mine Safety and Licensing will establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.



OMSL Disciplinary Cases before the Kentucky Mine Safety Review Commission

Pending MSRC Cases

1. Michael R. Sparks v. OMSL, No. 07-MSRC-072 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – Hearing scheduled for April 20, 2007.
2. Charlie B. Ward v. OMSL, No. 07-MSRC-071 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – Hearing scheduled for April 20, 2007.
3. Alfred J. Fields v. OMSL, No. 07-MSRC-070 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – Hearing scheduled for April 20, 2007.
4. Rodney Estep v. OMSL, No. 07-MSRC-069 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – Hearing scheduled for April 20, 2007.
5. Clayton Bernard Banks v. OMSL, No. 07-MSRC-068 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – Hearing scheduled for April 20, 2007.
6. Michael Hannah v. OMSL, No. 07-MSRC-067 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – Hearing scheduled for April 20, 2007.
7. OMSL v. Shawn E. Ailiff, No. 07-MSRC-066 (District Not Reported): Failed to appeal certification suspension due to reported violations of drug-free status. STATUS: ACTIVE – On March 21, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007.
8. OMSL v. Earl B. Feltner, No. 07-MSRC-065 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On March 21, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007.
9. OMSL v. Troy A. Collett, No. 07-MSRC-064 (Harlan): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On March 21, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007.
10. OMSL v. Ronald J. Dean, No. 07-MSRC-063 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On March 21, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007.
11. OMSL v. Charles J. Cantrell, No. 07-MSRC-062 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On March 21, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007.
12. OMSL v. Jessie W. Creech, No. 07-MSRC-061 (Harlan): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On March 21, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007.
13. Samuel J. Fraley v. OMSL, No. 07-MSRC-046 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – Hearing scheduled for April 20, 2007.
14. OMSL v. Ernest E. Toler v. OMSL, No. 07-MSRC-056 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On February 27, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing is scheduled for April 20, 2007.
15. OMSL v. Jim F. Yinger, No. 07-MSRC-055 (Pikeville): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On February 27, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007.
16. OMSL v. Nicholas Ward v. OMSL, No. 07-MSRC-054 (Martin): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On February 27, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). OMSL and Ward entered into a Settlement Agreement on March 21, 2007. Hearing is scheduled for April 20, 2007.
17. OMSL v. Christopher M. Saylor, No. 07-MSRC-053 (Pikeville): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On February 27, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing is scheduled for April 20, 2007.
18. Forrest A. Davis v. OMSL, No. 07-MSRC-059 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – Hearing scheduled for April 20, 2007.
19. OMSL v. Kyle Sammons, No. 07-MSRC-058 (Martin): Failed to appeal certification suspension due to reported violation of drug-free status. STATUS: ACTIVE – On February 27, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing is scheduled for April 20, 2007.
20. OMSL v. Thomas Slone, No. 07-MSRC-057 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status.

- STATUS: ACTIVE** – On February 27, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing is scheduled for April 20, 2007.
21. **OMSL v. Floyd Doug Simpson, Paul R. Rigney, Jr., Samuel Brock and Cecil Seals**, No. 07-MSRC-044 (Harlan): Complaint filed February 22, 2007. MSHA referral based on federal inspection revealing numerous unsafe conditions/violations in the mine, including smoking materials belonging to miner Brock and foreman Simpson, roof bolter Rigney under an unsupported area, and inadequately supported roof at some locations. Foreman Simpson and Superintendent Seals were also cited. OMSL filed a complaint for one-year suspension of Simpson's underground mine foreman certificate, Seals' electrical worker certificate, and Rigney's and Brock's temporary underground miner certificates; and two-year probation of all other certificates. **STATUS: ACTIVE** – Probable Cause found on March 16, 2007. Evidentiary hearing scheduled for August 9, 2007.
22. **Robert F. Ellison v. OMSL**, No. 07-MSRC-052 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007.
23. **Joshua James Ison v. OMSL**, No. 07-MSRC-051 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007.
24. **Jonathan D. Branham v. OMSL**, No. 07-MSRC-050 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007.
25. **Daniel Ray Farley v. OMSL**, No. 07-MSRC-049 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007.
26. **James Joseph v. OMSL**, No. 07-MSRC-048 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007.
27. **Albert J. Kilburn v. OMSL**, No. 07-MSRC-047 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007.
28. **Christopher W. Johnson v. OMSL**, No. 07-MSRC-045 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007.
29. **Ricky Lee Smith v. OMSL**, No. 07-MSRC-042 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Failed to appear at March 16, 2007 hearing. Show Cause Order entered for April 20, 2007.
30. **Joshua Gamble v. OMSL**, No. 07-MSRC-041 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for March 16, 2007. Settlement Agreement approved by the Commission on March 16, 2007. Probation of surface miner certificate for one year and submit to drug testing every 30 days. Reinstated by the Board on March 22, 2007.
31. **Justin Ratliff v. OMSL**, No. 07-MSRC-040 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for March 16, 2007. Hearing continued to April 20, 2007.
32. **Michael R. Faustich v. OMSL**, No. 07-MSRC-039 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for March 16, 2007. Settlement Agreement approved by the Commission on March 16, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Received drug abuse assessment March 22, 2007. Reinstated by the Board on March 22, 2007.
33. **Dennis W. Branin v. OMSL**, No. 07-MSRC-038 (Harlan): Petition for appeal for certifications suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for March 16, 2007. Settlement Agreement approved by the Commission on March 16, 2007. Probation of gas detection and underground miner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstated by the Board on March 22, 2007.
34. **Claude S. Sargent v. OMSL**, No. 07-MSRC-037 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Failed to appear at March 16, 2007 hearing. Show Cause Order entered for April 20, 2007.
35. **David E. Caudill v. OMSL**, No. 07-MSRC-036 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for March 16, 2007. Settlement Agreement was approved by the Commission on March 16, 2007. Probation of belt examiner, underground miner and surface miner certificates for one year, suspension of shot-firer conventional certificate until probationary period is completed, submit drug abuse assessment prior to reinstatement and submit to drug testing every 30 days. Reinstatement pending Board approval.
36. **James L. Smith v. OMSL**, No. 07-MSRC-035 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for March 16, 2007. Settlement Agreement was approved by the Commission on March 16, 2007. Probation of underground miner and electrical worker's certificates for one year, suspension of underground mine foreman certificate until probation period is completed, submit drug abuse assessment prior to reinstatement and submit to drug testing every 30 days. Received drug abuse assessment March 10, 2007. Certificates were reinstated by the Board on March 22, 2007.
37. **Timothy W. Langdon v. OMSL**, No. 07-MSRC-034 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for March 16, 2007. Settlement Agreement approved by the Commission on February 8, 2007. Probation of underground miner and surface miner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstated by the Board on March 22, 2007.
38. **Scott C. Sutton v. OMSL**, No. 07-MSRC-001 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Failed to appear at February 8, 2007 hearing. Show Cause Order entered for March 16, 2007. Failed to appear at Show Cause Hearing. Commission revoked Sutton's certificate(s) March 22, 2007.
39. **Robert C. Larsen v. OMSL**, No. 07-MSRC-002 (District Not Reported): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Failed to appear at February 8, 2007 hearing. Show Cause Order entered for March 16, 2007. Settlement Agreement was approved by the Commission on March 16, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
40. **Brien P. Wilson v. OMSL**, No. 07-MSRC-003 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Failed to appear at February 8, 2007 hearing. Show Cause Order entered for March 16, 2007. Wilson failed to appear at hearing. Show Cause Order entered for April 20, 2007.
41. **Richard D. Robinson v. OMSL**, No. 07-MSRC-004 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on January 11, 2007. Probation of underground miner certificate for one year, continue counseling and treatment program during probation period until treatment is completed and drug testing every 30 days. Certificate reinstated by the Board on January 25, 2007. Robinson's underground miner certificate was permanently revoked by the Commission on March 16, 2007, for violation of the drug testing provisions of his agreement with the OMSL.
42. **Brian D. Green v. OMSL**, No. 07-MSRC-005 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on February 8, 2007. Probation of underground mine certificate for one year, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstated by the Board on March 22, 2007.
43. **William P. Ball v. OMSL**, No. 07-MSRC-006 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Probation of underground miner, gas detection and drill operator certificates for one year, suspension of underground mine foreman, MET, shot firer conventional and shot firer solid blasting certificates until probation period is completed and continue in an alcohol counseling or support group program until completed. Board reinstated certificates on February 22, 2007.
44. **Terry W. Bevins v. OMSL**, No. 07-MSRC-007 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Failed to appear at February 8, 2007 hearing. Show Cause Order entered for March 16, 2007. Failed to appear at Show

Cause Hearing. Commission revoked Bevins' certificate(s) on March 22, 2007.

45. **William K. Jervis v. OMSL**, No. 07-MSRC-008 (District Not Reported): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on February 8, 2007. Probation of underground miner certificate for one year and drug testing every 30 days. Certificate(s) were reinstated by the Board on March 22, 2007.
46. **Timothy P. Christopher v. OMSL**, No. 07-MSRC-009 (District Not Reported): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Settlement Agreement approved by the Commission on February 8, 2007. Probation of underground miner and gas detection certificates for one year, suspension of underground mine foreman certificate during probation period, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
47. **OMSL v. David A. Prow**, No. 07-MSRC-010 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 11, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Failed to appear at hearing February 8, 2007. The Commission entered an Order revoking Prow's certificates on February 12, 2007.
48. **OMSL v. Clayton T. Slone**, No. 07-MSRC-011 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 11, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Failed to appear at hearing February 8, 2007. The Commission entered an Order revoking Slone's certificates on February 12, 2007.
49. **OMSL v. Treavor Slone**, No. 07-MSRC-012 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 11, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Failed to appear at hearing February 8, 2007. The Commission entered an Order revoking Slone's certificate(s) on February 12, 2007.
50. **OMSL v. Terry G. Webb**, No. 07-MSRC-013 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 11, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Failed to appear at hearing February 8, 2007. The Commission entered an Order revoking Webb's certificates on February 12, 2007.
51. **OMSL v. John W. Wright**, No. 07-MSRC-014 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 11, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Failed to appear at hearing February 8, 2007. The Commission entered an Order revoking Wright's certificate(s) on February 12, 2007.
52. **OMSL v. Gary Isaac Hogston**, No. 07-MSRC-033 (Pikeville): Complaint filed February 6, 2007. Subject: MSHA referral based on federal inspection revealing smoking materials on Hogston's person. KDMM filed a complaint for a one-year suspension of Hogston's temporary underground miner's certificate (#PE-0019-05) and a two-year probation of his temporary surface miner's certificate. **STATUS: ACTIVE** – Probable Cause found on March 16, 2007. Evidentiary hearing scheduled for May 10, 2007.
53. **OMSL v. Timothy Dean Lester**, No. 07-MSRC-018 (Pike): Inspection found 8 violations involving roof control plan and unsupported roof. Complaint filed on January 19, 2007, by OMSL requesting revocation of mine foreman's certificate for one year and suspension of underground miner, shot firer, MET, drill operator, and gas detection certificates for one year. **STATUS: ACTIVE** – Probable cause found by the Commission on February 8, 2007. Hearing scheduled for May 10, 2007.
54. **OMSL v. Lacy Pauley, Jr.**, No. 07-MSRC-026 (Pikeville): Motion for Show Cause filed by OMSL on January 31, 2007 as respondent failed to file appeal after November 2, 2006 suspension of his surface miner's and temporary underground miner's certifications. **STATUS: ACTIVE** – Hearing scheduled for March 16, 2007 was continued. Hearing is scheduled for April 20, 2007.
55. **OMSL v. Hearrel B. Ray**, No. 07-MSRC-027 (Harlan): Motion for Show Cause filed by OMSL on January 31, 2007 as respondent failed to file appeal after November 15, 2006 suspension of his underground miner's and temporary surface miner's certifications. **STATUS: ACTIVE** – Hearing scheduled for March 16, 2007 was continued to April 20, 2007.
56. **Henry Ray Bentley v. OMSL**, No. 06-MSRC-124 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status (refusal to submit to test). **STATUS: ACTIVE** – Did appear at show cause hearing on February 8, 2007. Settlement Agreement accepted by the Commission on February 8, 2007. Referred to Mining Board.
57. **Roy Lynn Hunt v. OMSL**, No. 06-MSRC-125 (Pikeville): Failed to appeal certification suspension due to reported violation of drug-free status (positive test). **STATUS: ACTIVE** – Did appear at show cause hearing on February 8, 2007. Settlement Agreement accepted by the Commission on February 8, 2007. Referred to Mining Board.
58. **Troy Lee Belcher v. OMSL**, No. 06-MSRC-121 (Pikeville): Failed to appeal certification suspension due to reported violation of drug-free status (refusal to submit to test). **STATUS: CONCLUDED** – Failed to appear at show cause hearing on February 8, 2007. Final Order of Commission revoking temporary surface mining certificate, effective February 12, 2007.
59. **Christopher Shannon Smith v. OMSL**, No. 06-MSRC-122 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status (refusal to submit to test). **STATUS: CONCLUDED** – Failed to appear at show cause hearing on February 8, 2007. Final Order of Commission revoking temporary underground mining certificate, effective February 12, 2007.
60. **Ronnie Shepherd v. OMSL**, 06-MSRC-123 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status (failed random test). **STATUS: CONCLUDED** – Failed to appear at show cause hearing on February 8, 2007. Final Order of Commission revoking temporary underground mining certificate, effective February 12, 2007.
61. **OMSL v. Michael J. Dunigan**, No. 06-MSRC-110 (Hazard): Motion for Show Cause filed by OMSL on December 8, 2006 as respondent failed to file appeal after August 2, 2006 suspension of his surface miner's and temporary underground miner's certificates. **STATUS: CONCLUDED** – Case was continued at January 11, 2007 hearing as respondent telephoned and expressed a wish to settle. Settlement Agreement accepted by the Commission on February 8, 2007. Probation of surface miner and temporary underground miner certificates for one year, continue drug abuse counseling program until completed and submit to drug testing every 30 days. Mining Board reinstated certificates on February 22, 2007.
62. **Gregory A. Maggard v. OMSL**, No. 06-MSRC-113 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on January 11, 2007. Probation of underground miner and gas detection certificates for one year, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Received drug abuse assessment January 4, 2007. Board reinstated certificates on February 22, 2007.
63. **OMSL v. William Brock**, No. 06-MSRC-102 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 6, 2006, OMSL filed Show Cause Motion to revoke miner certificate(s). Failed to appear at hearing on January 11, 2007. Commission entered order revoking Brock's certificate(s) on January 11, 2007.
64. **OMSL v. Arie Biasden**, No. 06-MSRC-100 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 6, 2006, OMSL filed Show Cause Motion to revoke miner certificate(s). Failed to appear at hearing on January 11, 2007. Commission entered order revoking Biasden's certificate(s) on January 11, 2007.
65. **OMSL v. Dusty Harless**, No. 06-MSRC-099 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 6, 2006, OMSL filed Show Cause Motion to revoke miner certificate(s). On December 21, 2006, Show Cause Motion was withdrawn. Harless' certificate(s) suspension was withdrawn by the Commission on December 19, 2006.
66. **OMSL v. Bryan Sprader**, No. 06-MSRC-101 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 6, 2006, OMSL filed Show Cause Motion to revoke miner certificate(s). Hearing scheduled for March 16, 2007. Sprader failed to appear at hearing. Commission entered an Order revoking certificate March 22, 2007.
67. **OMSL v. Jeffrey N. Eldridge**, No. 06-MSRC-111 (Harlan): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 8, 2006, OMSL filed Motion for Show Cause Order. Hearing was scheduled for January 11, 2007. Eldridge

failed to appear. Commission filed an Order revoking Eldridge's surface miner certificate on January 11, 2007. File approved for closure on February 12, 2007.

68. **OMSL v. Johnny R. James**, No. 06-MSRC-107 (Pikeville): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 7, 2006, OMSL filed a Motion for Show Cause Order. Hearing was scheduled for January 11, 2007. James failed to appear. Commission entered an Order revoking James' underground miner certificate on January 11, 2007. File approved for closure on February 12, 2007.
69. **OMSL v. Madison Litteral**, No. 06-MSRC-118 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 20, 2006, OMSL filed a Motion for Show Cause Order. Hearing was scheduled for January 11, 2007. Litteral failed to appear. Commission entered an Order revoking Litteral's certificates on January 11, 2007.
70. **OMSL v. William J. Russell**, No. 06-MSRC-120 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 20, 2006, OMSL filed a Motion for Show Cause Order. Hearing was scheduled for January 11, 2007. Russell failed to appear. Commission entered an Order revoking Russell's certificates on January 11, 2007.
71. **OMSL v. Kevin Justice**, No. 06-MSRC-116 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 20, 2006, OMSL filed a Motion for Show Cause Order. Hearing was scheduled for January 11, 2007. Justice failed to appear. Commission entered an Order revoking Justice's certificates on January 11, 2007.
72. **OMSL v. Tristan M. Keathley**, No. 06-MSRC-117 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On December 20, 2006, OMSL filed a Motion for Show Cause Order. Hearing was scheduled for January 11, 2007. Keathley failed to appear. Commission entered an Order revoking Keathley's certificates on January 11, 2007.
73. **OMSL v. Jason L. Maggard**, No. 07-MSRC-020 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 25, 2007, OMSL filed a Motion for Show Cause Order. Hearing is scheduled for March 16, 2007. Maggard failed to appear at hearing. Commission entered an Order revoking Maggard's certificate(s) on March 22, 2007.
74. **OMSL v. Jamie L. Osborne**, No. 07-MSRC-025 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 31, 2007, OMSL filed a Motion for Show Cause Order. Hearing is scheduled for March 16, 2007. Osborne failed to appear at hearing. Commission entered an Order revoking Osborne's certificate(s) on March 22, 2007.
75. **OMSL v. Kenneth R. Mounts**, No. 07-MSRC-024 (Pikeville): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 31, 2007, OMSL filed a Motion for Show Cause Order. Hearing is scheduled for March 16, 2007. Mounts failed to appear at hearing. Commission entered an Order revoking Mounts' certificate(s) March 22, 2007.
76. **OMSL v. Donald J. Hurt**, No. 07-MSRC-022 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – On January 25, 2007, OMSL filed a Motion for Show Cause Order. Hearing is scheduled for March 16, 2007. Hurt has entered into a Settlement Agreement with OMSL. Probation of underground miner's certificate for one year, continue to attend counseling sessions he is currently enrolled in until completion and drug testing every 30 days. Reinstatement pending Board approval.
77. **OMSL v. Larry Robinson**, No. 06-MSRC-119 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Show Cause Order entered for Mr. Robinson to appear before the Commission on January 11, 2007. Robinson indicated he is in a 60 day rehabilitation program and therefore could not appear before the Commission on that date. Order continuing hearing of show cause motion set for April 20, 2007.
78. **OMSL v. Paul Mitchell**, No. 07-MSRC-019 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – On January 25, 2007, OMSL filed Show Cause Motion to revoke miner certificate(s). Hearing scheduled for March 16, 2007. Mitchell failed to appear at hearing. Show Cause Motion to revoke certificate(s) reset for April 20, 2007.
79. **OMSL v. Stephen Maggard**, No. 07-MSRC-021 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 25, 2007, OMSL filed Show Cause Motion to revoke miner certificate(s). Hearing scheduled for March 16, 2007. Maggard failed to appear at hearing. Commission entered an Order revoking certificates March 22, 2007.
80. **Michael R. King v. OMSL**, No. 07-MSRC-015 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Settlement Agreement approved by the Commission on February 8, 2007. Probation of underground miner certificate for one year, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
81. **Bobby L. Smith v. OMSL**, No. 07-MSRC-016 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on February 8, 2007. Probation of underground miner certificate for one year, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Received drug abuse assessment on February 8, 2007. Certificate reinstated by the Board on March 22, 2007.
82. **Anthony R. Gregory v. OMSL**, No. 07-MSRC-023 (Barbourville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for March 16, 2007 was continued to April 20, 2007.
83. **OMSL v. Earl Caudill III**, No. 07-MSRC-017 (District Not Reported): Motion for Show Cause filed by OMSL on January 18, 2007 as respondent had failed to file appeal after October 13, 2006 suspension of his underground miner certification. **STATUS: CONCLUDED** – Respondent failed to appear at February 8, 2007 OMSL hearing and his certification was ordered revoked at that time. The Commission entered an Order revoking Caudill's certificates on February 12, 2007. File approved for closure on February 20, 2007.
84. **OMSL v. Donald G. Combs**, No. 07-MSRC-108 (Hazard): Motion for Show Cause filed by OMSL on December 7, 2006 as respondent had failed to file appeal after August 2, 2006 suspension of his surface miner's certificate, MET certificate, and surface mine foreman's license. **STATUS: ACTIVE** – Case was continued at January 11, 2007 hearing as respondent had telephoned and expressed a wish to settle. Settlement Agreement accepted by the Commission on February 8, 2007. Probation of surface miner and MET certificates for one year, suspension of surface mine foreman certificate until probation period is completed, continue drug abuse counseling program until completion and submit to drug testing every 30 days. Board reinstated certificates on February 22, 2007. On March 5, 2007, OMSL filed Acknowledgement of Partial Satisfaction of Settlement Agreement. Mr. Combs had completed and was released from drug abuse counseling program.
85. **OMSL v. Edison D. Garrett**, No. 06-MSRC-031 (District Not Reported): The Respondent's MET certificate, surface miner's foreman's certificate and surface miner's certificate were suspended on October 5, 2006 due to a reported violation of the employer's substance and alcohol abuse policy. No Petition of Appeal was filed by the Respondent. **STATUS: CONCLUDED** – Motion for a Show Cause Order is to be heard on March 16, 2007. Garrett failed to contest Motion and OMSL moved for an Order revoking his certificates. Commission entered an Order revoking Garrett's certificate March 22, 2007.
86. **OMSL v. Michael W. Hayes**, No. 06-MSRC-029 (District Not Reported): The Respondent's underground miner's certificate was suspended on October 4, 2006 due to a reported violation of the employer's substance and alcohol abuse policy. No Petition of Appeal was filed by the Respondent. **STATUS: CONCLUDED** – Motion for a Show Cause Order is to be heard on March 16, 2007. Hayes failed to contest Motion and OMSL moved for an order revoking certificates. Commission entered an Order revoking certificates March 22, 2007.
87. **OMSL v. Jeremy R. Maxie**, No. 06-MSRC-032 (Pikeville): The Respondent's temporary surface miner's certificate was suspended on November 9, 2006 due to a reported violation of the employer's substance and alcohol abuse policy. No Petition of Appeal was filed by the Respondent. **STATUS: CONCLUDED** – Motion for a Show Cause Order is to be heard on March 16, 2007. Maxie failed to contest Motion and OMSL moved for an order revoking certificates. Commission entered an Order revoking certificates March 22, 2007.
88. **OMSL v. James C. Meade**, No. 06-MSRC-028 (Hazard): The Respondent's surface miner's certificate and underground miner's certificate were suspended on November 29, 2006 due to a reported violation of the employer's substance and alcohol abuse policy. No Petition of Appeal was filed by the

- Respondent. **STATUS: ACTIVE** – Motion for a Show Cause Order is to be heard on March 16, 2007. Meade was present at hearing and provided documentation to OMSL. The matter was continued to April 20, 2007 for further investigation.
89. **OMSL v. Leslie K. Maynard**, No. 06-MSRC-030 (Pikeville): The Respondent's underground miner's certificate was suspended on November 30, 2006 due to a reported violation of the employer's substance and alcohol abuse policy. No Petition of Appeal was filed by the Respondent. **STATUS: CONCLUDED** – Motion for a Show Cause Order is to be heard on March 16, 2007. Maynard failed to contest Motion and OMSL moved for an order revoking his certificates. Commission entered an Order revoking Maynard's certificate March 22, 2007.
90. **Jonathan D. Tackett v. OMSL**, No. 06-MSRC-091 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on December 14, 2006. Probation of underground miner, drill operator and gas detection certificates for one year, suspension of conventional and solid blasting shot firer certificates during probation period, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Received drug abuse assessment on January 8, 2007. Certificates reinstated by the Board on January 25, 2007.
91. **Ross A. Ewing v. OMSL**, No. 06-MSRC-093 (District Not Reported): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on January 11, 2007. Probation of underground miner and gas detection certificates for one year, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Received drug abuse assessment on January 25, 2007. Board reinstated certificates on February 22, 2007.
92. **Brian S. Bowen v. OMSL**, No. 06-MSRC-094 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Settlement Agreement approved by the Commission on January 11, 2007. Probation of underground miner, gas detection and belt examiner certificates for one year and drug testing every 30 days. Reinstatement pending Board approval.
93. **Gregory A. Blanton v. OMSL**, No. 06-MSRC-096 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement was approved by the Commission on January 11, 2007. Probation of underground miner and gas detection certificates for one year and drug testing every 30 days. Certificates reinstated by the Board on January 25, 2007.
94. **OMSL v. John M. Fraley**, No. 06-MSRC-109 (Hazard): Motion for Show Cause filed by OMSL on December 8, 2006 as respondent had failed to file appeal after August 17, 2006 suspension of his temporary surface miner's certificate. **STATUS: CONCLUDED** – Case was continued at January 11, 2007 hearing as respondent had telephoned and expressed a wish to settle. However, he subsequently changed his mind and failed to appear at February 8, 2007 OMSL hearing. The Commission entered an Order revoking Fraley's certificates February 12, 2007. File approved for closure on February 20, 2007.
95. **Ryan S. Franklin v. OMSL**, No. 06-MSRC-112 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement was approved by the Commission on January 11, 2007. Probation of underground miner and temporary surface miner certificates for one year and drug testing every 30 days. Certificates reinstated by the Board on January 25, 2007.
96. **Timothy V. Hardy v. OMSL**, No. 06-MSRC-114 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on January 11, 2007. Probation of underground miner and gas detection certificates for one year, continue counseling and treatment program during probation period until treatment is completed and drug testing every 30 days. Certificates reinstated by the Board on January 25, 2007.
97. **Joshua R. Joseph v. OMSL**, No. 06-MSRC-115 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on February 8, 2007. Probation of underground miner and temporary surface miner certificates for one year, drug abuse assessment prior to reinstatement and drug testing every 30 days. Board reinstated certificates on February 22, 2007.
98. **Timothy Nantz v. OMSL**, No. 06-MSRC-126 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on January 11, 2007. Probation of underground miner certificate for one year, continue counseling and treatment program during probation period until treatment is completed and drug testing every 30 days. Certificate reinstated by the Board on January 25, 2007.
99. **Donald R. Nantz v. OMSL**, No. 06-MSRC-127 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on January 11, 2007. Probation of underground miner certificate for one year, continue counseling and treatment program during probation period until treatment is completed and drug testing every 30 days. Certificate reinstated by the Board on January 25, 2007.
100. **Paul E. Bowns v. OMSL**, No. 06-MSRC-072 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Failed to appear at hearing on December 14, 2006. Show Cause Order entered for January 11, 2007. On January 11, 2007, the Commission dismissed Mr. Bowns' appeal. His surface miner's certificate was revoked on January 16, 2007.
101. **Clarence Coots v. OMSL**, No. 06-MSRC-077 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Failed to appear at hearing on December 14, 2006. Show Cause Order entered for January 11, 2007. Settlement Agreement accepted by the Commission on January 11, 2007. Probation of underground miner and surface miner certificates for one year and drug testing every 30 days. Certificates reinstated by the Board on January 25, 2007.
102. **Timothy Ray Blanton v. OMSL**, No. 06-MSRC-078 (District Not Reported): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement accepted by the Commission on December 14, 2006. Probation of underground miner certificate for one year, drug abuse assessment prior to reinstatement, and drug testing every 30 days. Received drug abuse assessment December 18, 2006. Certificate reinstated by the Board on January 4, 2007.
103. **James E. Scott, Jr. v. OMSL**, No. 06-MSRC-079 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement accepted by the Commission on December 14, 2006. Probation of underground miner, gas detection and electrical certificates for one year and drug testing every 30 days. Certificates reinstated by the Board on January 4, 2007.
104. **Kenneth W. Spangler v. OMSL**, No. 06-MSRC-080 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement accepted by the Commission on December 14, 2006. Probation of underground miner and gas detection certificates for one year and drug testing every 30 days. Certificates reinstated by the Board on January 4, 2007.
105. **Roger D. Little v. OMSL**, No. 06-MSRC-081 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement accepted by the Commission on December 14, 2006. Probation of underground miner certificate for one year, drug abuse assessment prior to reinstatement and drug testing every 30 days. Received drug abuse assessment on January 17, 2007. Certificate reinstated by the Board on January 25, 2007.
106. **Jimmy A. McCary v. OMSL**, No. 06-MSRC-082 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Failed to appear at hearing on December 14, 2006. Show Cause Order entered for January 11, 2007. Failed to appear at January 11, 2007 hearing. Show Cause Order/Motion for Revocation entered for February 8, 2007. Failed to appear at February 8, 2007 hearing. Commission dismissed Mr. McCary's appeal and revoked his temporary underground miner and temporary surface miner certificates. Commission entered an Order revoking McCary's certificates on February 12, 2007.
107. **Teddy Green v. OMSL**, No. 06-MSRC-083 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement accepted by the Commission on November 9, 2006. Probation of underground miner and gas detection certificates, drug abuse assessment before reinstatement and drug testing once every 30 days. Received drug abuse assessment on February 7, 2007. Board reinstated certificates on February 22, 2007.
108. **Kenny Marcum v. OMSL**, No. 06-MSRC-086 (District Not Reported): Petition for appeal for certification suspension due to reported violation of drug-

- free status. **STATUS: CONCLUDED** – Settlement Agreement accepted by the Commission on December 14, 2006. Probation of surface miner certificate for one year, drug abuse assessment before reinstatement and drug testing once every 30 days. Received drug abuse assessment on January 1, 2007. Certificate reinstated by the Board on January 4, 2007.
109. **Keith Tackett v. OMSL**, No. 06-MSRC-087 (District Not Reported): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement accepted by the Commission on December 14, 2006. Probation of surface miner certificate for one year, drug abuse assessment before reinstatement and drug testing once every 30 days. Received drug abuse assessment on January 23, 2007. Certificate reinstated by the Board on March 22, 2007.
110. **Richard F. Watkins v. OMSL**, No. 06-MSRC-088 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Continued to January 11, 2007, pending settlement discussions. Settlement Agreement accepted by the Commission on January 11, 2007. Probation of temporary surface miner, electrical worker and underground miner certificates for one year, drug abuse assessment before reinstatement and drug testing once every 30 days. Received drug abuse assessment on January 12, 2007. Certificates reinstated by the Board on January 25, 2007.
111. **Anthony Bledsoe v. OMSL**, No. 06-MSRC-090 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement accepted by the Commission on December 14, 2006. Probation of underground miner and surface miner certificates, drug abuse assessment before reinstatement and drug testing every 30 days. Received drug abuse assessment on January 15, 2007. Certificates reinstated by the Board on January 25, 2007.
112. **Charles G. Conn v. OMSL**, No. 06-MSRC-067 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on November 9, 2006. Probation of certificates for one year and drug testing every 30 days. Certificates reinstated by the Board on January 4, 2007.
113. **Ricky Eversole v. OMSL**, No. 06-MSRC-069 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission, but required evaluation to be submitted on January 11, 2007. Probation of underground miner and gas detection certificates for one year, suspension of underground mine foreman certificate during probationary period, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Eversole submitted drug abuse assessment to the Commission on January 11, 2007. Certificates reinstated by the Board on January 25, 2007.
114. **Richard F. Bray v. OMSL**, No. 06-MSRC-070 (Barbourville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Failed to appear at hearing on December 14, 2006. Show Cause Order entered for January 11, 2007. Settlement Agreement was approved by the Commission on January 11, 2007. Probation of underground miner and gas detection certificates for one year and drug testing every 30 days. Reinstatement pending Board approval.
115. **Roger B. Tibbs**, No. 06-MSRC-071 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Settlement Agreement approved by Commission on November 9, 2006. Probation of certificate for one year and drug testing every 30 days. Reinstatement pending Board approval.
116. **OMSL v. Alger Jent, James Byrd, Michael Howard, Pat Childress**, No. 06-MSRC-073 (Martin): Complaint filed October 26, 2006, alleging 27 violations of mine safety laws. Found by inspections on September 13 and 14, 2004. Jent was the mine superintendent B King Coal Company, Inc., No. 1 Mine. Byrd was section foreman. Childress and Howard were chief electricians. OMSL seeks revocation of Jent's miner foreman certificate, probation of his miner certificates; revocation of Childress' mine foreman and electrical worker's certificates; revocation of Byrd's underground mine foreman certificate and suspension of his drill operator and shot firer certificates; and, probation of Howard's mine foreman and electrical worker's certificates. **STATUS: ACTIVE** – Probable cause found by the Commission on November 9, 2006. Hearing scheduled for May 10, 2007.
117. **OMSL v. Lawrence Kendrick, Terry Sturgill and Nathan Sturgill**, No. 06-MSRC-074 (Martin): Inspection found smoking materials in the surface area above the mine. The Sturgills, to whom the materials belonged, have been cited and the foreman, Kendrick, was cited for failure to conduct a proper search. Complaint filed October 26, 2006, by OMSL requesting revocation of both Sturgills' underground (and Terry's gas detection) and of Kendrick's mine foreman's certificates for one year and suspension of Kendrick's remaining certificates for one year. **STATUS: ACTIVE** – The Commission found Probable Cause on November 9, 2006. Settlement Agreement with Kendrick accepted by the Commission by Order of January 17, 2007, providing for probation of mine foreman's certificate for one year, to be revoked on violations during the probationary period, with 8 hours of special safety training. Sturgills each had a Settlement Agreement but did not appear on January 11 or at a Show Cause Hearing on February 8, 2007. Sturgills had reported transportation difficulties, and Show Cause Hearing to be held on March 16, 2007. Kendrick completed special training on February 27, 2007. The Sturgills failed to appear before the Commission, and at the Hearing on March 16, 2007, an Order was entered by the Commission revoking their certificates.
118. **OMSL v. Riley C. Akers**, No. 06-MSRC-075 (Pikeville): Company's approved roof control plan allowed maximum continuous miner cuts of 20 feet; MSHA inspector found a crosscut cut 26-30 feet deep, which exposed miners to imminent danger of serious injury or death: Akers was the mine foreman and superintendent and operated the continuous miner. Complaint filed October 26, 2006, by OMSL requesting revocation of underground miner, shot firer, drill operator, first aid, and gas detection certificates for one year. **STATUS: ACTIVE** – The Commission found Probable Cause on November 9, 2006. Answer filed December 1, 2006. Hearing scheduled for January 11, 2007 was continued to April 20, 2007.
119. **OMSL v. John Goins and Robert Griffin**, No. 06-MSRC-061 (Barbourville): Complaint filed October 2, 2006. This action was brought by OMSL requesting suspension of both Defendants' surface miner's certificates for one year. John Goins was operating a Volvo BM front end loader in the pit of an unlicensed surface coal mine. Robert Griffin was cited for operating a surface coal mine without a license, with no foreman or certified MET on site. **STATUS: ACTIVE** – The Mine Safety Review Commission found Probable Cause on October 12, 2006. A Settlement Agreement between OMSL and Goins was entered and approved by the Commission on December 19, 2006. Mr. Goins' surface miner's certificate was placed on probation for one year. He was required to take eight (8) hours of special safety training, which he has completed. With regard to Griffin, the formal hearing was held on February 8, 2007. The case now stands submitted to the Commission for a final Order.
120. **Michael Shane Miller v. OMSL**, No. 06-MSRC-031 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 14, 2006. On January 25, 2007, the Board denied reinstatement. Board wanted continued counseling and monitoring by the OMSL to be included in agreement. Commission approved Amended Settlement Agreement on February 8, 2007. Board reinstated certificates on February 22, 2007.
121. **Joshua D. Stidham v. OMSL**, No. 06-MSRC-033 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 14, 2006. Mining Board agrees to reinstate certification pending substance abuse assessment. Received assessment on October 26, 2006 certifications reinstated with one year probation and drug testing every thirty (30) days.
122. **Jeffery Mulkey v. OMSL**, No. 06-MSRC-035 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on September 26, 2006. Mining Board reinstated certifications on September 28, 2006 with one year probation and drug testing every sixty (60) days.
123. **Roger D. Russell v. OMSL**, No. 06-MSRC-036 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 26, 2006. Mining Board reinstated certifications on September 28, 2006 with one year probation and drug testing every sixty (60) days.
124. **Jackie S. Williams v. OMSL**, No. 06-MSRC-037 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Williams failed to appear at September 26 Commission meeting concerning settlement agreement. Commission entered Settlement Agreement on October 12, 2006. Certificate was reinstated by the Board on March 22, 2007.
125. **Marlin Williams v. OMSL**, No. 06-MSRC-039 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status.

- STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 26, 2006. Mining Board reinstated certifications on September 28, 2006 with one year probation and drug testing every sixty (60) days, pending submission of drug test results. Negative test results submitted and certifications reinstated September 29, 2006.
126. **John H. Inman v. OMSL**, No. 06-MSRC-041 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Inman failed to appear at Commission meeting concerning settlement agreement due to hospitalization. Mining Board agreed on September 28, 2006 to reinstate certifications with probation of one year and drug testing every sixty (60) days. Accepted by Commission on November 9, 2006. Inman's underground miner and gas detection certificates were permanently revoked by the Commission on March 16, 2007, for violation of the drug testing provisions of his agreement with OMSL.
127. **Ralph Hurley v. OMSL**, No. 06-MSRC-042 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 14, 2006. Mining Board agreed to reinstate underground miner's certificate with one year probation, continue drug rehab program until completion and drug testing every sixty (60) days. All other certifications remain suspended until completion of drug rehab program.
128. **Danny R. Tackett v. OMSL**, No. 06-MSRC-043 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on September 14, 2006. Mining Board agreed to reinstate certifications with one year probation and drug testing every sixty (60) days, pending submission of drug test results. Negative drug test results submitted October 2, 2006.
129. **Anthony O. Davis v. OMSL**, No. 06-MSRC-046 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on September 26, 2006. Mining Board agreed to reinstate surface miner's certificate with one year probation and drug testing every sixty (60) days. All other certifications remain suspended during probationary period and will be reinstated upon successful completion of probation.
130. **Michael A. Clark v. OMSL**, No. 06-MSRC-047 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 26, 2006. Mining Board agreed to reinstate certifications on September 28, 2006 with one year probation and drug testing every sixty (60) days.
131. **Rodney D. Stalker v. OMSL**, No. 06-MSRC-049 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 14, 2006. Mining Board agreed to reinstate certificates with one year probation and drug testing every thirty (30) days, pending submission of drug abuse assessment. Received drug abuse assessment October 16, 2006. Certificates now on probation.
132. **Christopher Stamper v. OMSL**, No. 06-MSRC-053 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by the Commission on September 26, 2006. Mining Board agreed to reinstate certificates with one year probation and drug testing every thirty (30) days.
133. **Wesley S. Griffie v. OMSL**, No. 06-MSRC-044 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Appeal withdrawn and suspension rescinded on October 12, 2006.
134. **Jonathan L. Stewart v. OMSL**, No. 06-MSRC-045 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Reinstated on October 26, 2006. Certificates placed on probation for one year and drug testing every 30 days.
135. **Everett Lyons, Jr. v. OMSL**, No. 06-MSRC-048 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Commission ordered certificates suspended until no sooner than November 16, 2006, if reinstated by the Board certificates will be probated for one year, drug testing every 30 days and a drug addiction assessment. Settlement Agreement approved by the Commission on January 11, 2007. Reinstatement pending Board approval.
136. **Ronnie Caldwell v. OMSL**, No. 06-MSRC-050 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement entered by Commission on November 9, 2006, for probation for one year with drug testing every 30 days. Reinstated November 16, 2006.
137. **Gary L. Pierce v. OMSL**, No. 06-MSRC-054 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement entered by Commission on November 9, 2006, for probation for one year with drug testing every 30 days. Reinstated by the Board on January 4, 2007.
138. **Jeremy D. Powell v. OMSL**, No. 06-MSRC-055 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement was entered by the Commission on October 12, 2006. Board reinstated October 26, 2006 with one year probation and drug testing every 30 days.
139. **Christopher L. Brown v. OMSL**, No. 06-MSRC-056 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing continued to March, 2007. Settlement Agreement was approved by the Commission on March 16, 2007. Probation of temporary underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
140. **Matthew D. Fluty v. OMSL**, No. 06-MSRC-057 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on October 23, 2006, suspension for one year and drug testing every 30 days. Reinstated by the Board pending submission of drug addiction evaluation and clean drug test. Drug test and evaluation submitted. Certificates were reinstated.
141. **Christopher John Borders v. OMSL**, No. 06-MSRC-058 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on October 12, 2006, suspension for one year and drug testing every 30 days. Reinstated by the Board on October 26, 2006.
142. **Bruce Strunk v. OMSL**, No. 06-MSRC-059 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on October 23, 2006, suspension for one year, drug testing every 30 days and evaluation by drug addiction professional. Reinstated by the Board October 26, 2006 pending submission of clean drug test and addiction evaluation. Drug test submitted October 30, 2006. Evaluation was submitted. Certificates were reinstated.
143. **Timothy N. Caudill v. OMSL**, No. 06-MSRC-060 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on October 23, 2006, suspension for one year, drug testing every 30 days and evaluation by drug addiction professional. Reinstated by the Board on October 26, 2006. Evaluation submitted October 25, 2006. Caudill's underground miner and temporary surface miner certificates were permanently revoked by the Commission on March 16, 2007, for violation of the drug testing provisions of his agreement with OMSL.
144. **OMSL v. Harold David Mosley, Jeffrey McGuire and Alvin Noble**, No. 06-MSRC-032 (Martin): Complaint filed August 21, 2006. Agency action against the defendants for violations including improper storage of explosive material, inadequate pre-shift exams, electrical violations, mechanical violations, roof support violations and excessive coal dust. **STATUS: ACTIVE** – Probable cause was determined by the Commission on September 14, 2006. On October 12, 2006, the Commission granted the Cabinet's Default Motion for Mosley and Noble. Mosley's mine foreman certificate was suspended for two years. His mining instructors underground, gas detection, drill operators, electrical worker's, EMT, MET, shot firer solid blasting and shot firer conventional certificates were probated for two years. Further, Mosley shall take 8 hours of special training at the Martin District Office. Noble's mine foreman certificate was suspended for two years. His assistant mine foreman, first aid, gas detection, drill operator, electrical worker, MET, shot firer solid blasting and surface mine foreman certificates were probated for two years. Further, Noble shall take 8 hours of special training at the Martin District Office. The Commission approved a Settlement Agreement between OMSL and McGuire. McGuire's mine foreman certificate was permanently revoked.

His drill operator, gas detection, shot firer conventional and shot firer solid blasting certificates were suspended for three years. Further, McGuire's electrical workers certificate was probated for four years. Mosley – Training Completed: **Yes – 12/01/06**. All of Noble's certificates were revoked by Order of the Commission on March 22, 2007 for failure to meet conditions of reinstatement contained in the Final Order of the Commission.

145. **OMSL v. William Gillis Dixon**, No. 06-MSRC-018 (Pikeville): Complaint filed July 25, 2006. This is a fatal accident case due to a roof fall. Three non-compliances were issued including damage to automated temporary roof support, failure to have temporary roof support within 500 feet of face as required in roof control plan and a certified mine foreman not being present when fatal accident occurred. **STATUS: ACTIVE** – Probable cause was determined by the Commission on August 10, 2006. Motion to Stay the Proceedings was filed on October 31, 2006. On November 2, 2006, hearing officer issued an order staying the proceedings.
146. **OMSL v. Gary Wayne Bentley**, No. 06-MSRC-017 (Harlan): Complaint filed July 17, 2006. This action was brought by OMSL requesting revocation of the Defendant's MET, underground coal miner and shot firer-conventional certificates. Mr. Bentley was the MET at H&D Mining, LLC Mine No. 3 when David Morris, Jr. was injured when he was pinned between the bucket of a ram car and the operator's compartment of the shuttle car. He subsequently died of his injuries. Mr. Bentley failed to follow appropriate standards of care in the management of Mr. Morris, failed to administer treatment in a responsible manner in accordance with his level of certification and failed to timely respond to an emergency, in violation of 805 KAR 7:080, Section 11. He also impeded the investigation by OMSL. **STATUS: ACTIVE** – The Commission found Probable Cause on August 10, 2006. The parties have agreed to settlement, however, the case is being held in abeyance due to Mr. Bentley's inability to appear before the Commission for medical reasons. The decedent's widow has been allowed to intervene as amicus curiae for purposes of any penalty determination resulting from a formal hearing.
147. **OMSL vs. Danny J. Ratliff, William D. Luke and Robert J. Hurley**, No. 06-MSRC-029 (Pikeville): Complaint filed August 17, 2006. This action was brought by OMSL requesting revocation of all three Defendants' underground mine foreman's certificates for one year and suspension of all of their remaining certificates for one year. All three were responsible for various violations of the Tri-Star Coal LLC's Mine No. 1's roof control plan that resulted in a roof fall that caused the death of David Chad Bolen. **STATUS: ACTIVE** – The Commission found probable cause on September 14, 2006. Hearing is scheduled for April 20, 2007. Discovery is proceeding.
148. **Paul B. Holbrook v. OMSL**, No. 06-MSRC-021: (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Holbrook's surface miner certificate was suspended. Settlement agreement approved by Commission: One year probation with drug testing every sixty (60) days if accepted by Mining Board. Mining Board declined to reinstate certifications. Holbrook remains suspended.
149. **Russell D. Asher v. OMSL**, No. 06-MSRC-024: (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – A Response and Motion was entered by OMSL requesting settlement agreement between OMSL and Asher be entered into record. Commission approved Settlement Agreement on August 22, 2006. Mining Board reinstated certification with one year probation and drug testing every sixty (60) days.
150. **William M. Thacker v. OMSL**, No. 06-MSRC-025: (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 26, 2006. Mining Board approved reinstatement with one year probation and drug testing every sixty (60) days, pending submission of clean drug test. Negative test results submitted and certifications reinstated October 4, 2006.
151. **Glen Daniels v. OMSL**, No. 06-MSRC-026: (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Settlement Agreement approved by Commission on September 12, 2006. Mining Board reinstated certification on September 28, 2006, with one year probation and drug testing every sixty (60) days.
152. **OMSL V. David Bevin**, No. 06-MSRC-014: (Pikeville): On March 13 2006, the U.S. Office of Mine Safety and Health Administration issued Citation No.7430536 for violation of smoking materials being in the mines. **STATUS: ACTIVE** – On April 17, 2006, OMSL filed a complaint requesting his underground miner's certificate, gas detection and surface miners certificate be revoked for an appropriate period of time. On May 11, 2006, the Commission found probable cause. On July 13, 2006, the Commission approved a settlement probating his surface and underground certificate for 1 year, suspending his gas detection cert for 6 months and requiring 8 hours of specialized training. Training Completed: **YES – 8/30/06**.
153. **OMSL v. Jeff McGuire**, No. 06-MSRC-016: (Martin): On November 10th and 22nd, 2005 OMSL issued non-compliances for build-up of combustible dust, electrical/mechanical failure of scoops, failures at man-doors, beltline failures and a crack in the mine floor. **STATUS: ACTIVE** – On May 11, 2006, OMSL filed a complaint. On June 8, 2006, the Commission found probable cause. On July 13, 2006, the Commission approved a settlement agreement suspending his underground mine foreman's license for one year, requiring 8 hours special training and probating his shot firers, electrical, drill operator and underground miners certificates for 1 year. Training Completed: **YES – 8/11/06**.
154. **OMSL v. Keith Collins, Ronald Bartley and James Hager**, No. 06-MSRC-008: (Pikeville): Agency action against named defendants for 66 violations including no foreman on site, untrained miners, fan stopped improperly, no firefighting equipment, no self-rescuers, electrical malfunctions and mechanical malfunctions. **STATUS: ACTIVE** – Probable cause determined by the Commission on April 13, 2006. On June 8, 2006 the Commission approved a settlement agreement with Collins probating his mine foreman's and electrical license for 18 months. A Final Order was entered by the Commission on July 13, 2006, approving a Settlement Agreement between OMSL and Ronald Bartley. Bartley's mine foreman, drill operator's, electrical workers, gas detection, MET and shot firer solid blasting certificates were probated for one year. Further Bartley has to complete 8 hours of training. On January 11, 2007, the Commission granted Mr. Hager's counsel's motion to withdraw as counsel. Trial involving Mr. Hager was conducted on January 11, 2007.
155. **OMSL v. Charles Manuel and Estill Johnson**, No. 06-MSRC-009: (Martin): Filed March 17, 2006. Pill found in Johnson's possession. Smoking material found underground. Electrical problems as well as brake problems were found on scoop. **STATUS: ACTIVE** – Probable cause determined by the Commission and trial is set for July 13, 2006. Defendants filed discovery request on April 19, 2006. OMSL moved to dismiss complaint. On June 8, 2006 the Commission granted OMSL's motion to dismiss complaint due to further investigation revealing the allegations not being substantiated.
156. **OMSL v. Gary Simpson, Shannon Hurt, Arvil Campbell and Tim Brock**, No. 06-MSRC-012: (Hazard): Filed April 14, 2006. Agency action against defendants for 22 violations. Electrical and mechanical malfunctions, no pre-shift exam, and not following roof control plan. **STATUS: ACTIVE** – Probable cause determined by the Commission on May 11, 2006. A Final Order was entered by the Commission on July 13, 2006, approving Settlement Agreement between OMSL and Gary Simpson. Simpson's underground mine foreman's certificate was probated for six months. A Final Order was entered by the Commission on July 13, 2006, approving Settlement Agreement between OMSL and Arvil Campbell. Campbell's underground mine foreman's certificate was probated for six months. Further Campbell has to take eight hours of specialized training at the Hazard Office. On July 13, 2006, the Commission granted OMSL's motion for default between OMSL and Shannon Hurt. Hurt's electrical worker's certificate was suspended for six months. Hurt's surface and underground miner's certificates were probated for one year. Further Hurt will be required to take eight hours of special training from OMSL's Hazard office. A Final Order was entered by the Commission on August 11, 2006, approving a Settlement Agreement between OMSL and Brock. Brock's mine foreman certificate was probated for six months. Further Brock will be required to take eight hours of special training from OMSL's Hazard office. Campbell – Training completed: **Yes – 6/30/06**. Hurt – Training completed: **Yes – 2/27/07**.
157. **OMSL v. Robert Smith**, No. 06-MSRC-013: (Hazard): Filed April 14, 2006. Agency action against defendant for 16 violations. Smith failed to properly conduct pre-shift exam resulting in serious non-fatal accident report, inadequate ventilation controls. **STATUS: ACTIVE** – Probable cause determined by the Commission on May 11, 2006. A Final Order was entered by the Commission on September 14, 2006, approving a Settlement Agreement between OMSL and Smith. Smith's mine foreman's certificate, gas detection certificate, shot fire solid blasting certificate, shot firer conventional certificate and drill operator certificate were revoked for two years. Smith's underground miner's certificate was probated for two years. Further Smith must take 8 hours of special training at the Hazard district office. Training completed: **Yes – 10/27/06**.
158. **OMSL v. Lonnie Moore & Gary Rutherford**, No. 06-MSRC-015: (Harlan): This action was brought against the mine superintendent and foreman for various violations arising from the Stillhouse Mining double fatality roof fall in August 2005. The violations pertain to failures to adequately train personnel in the retreat mining plan and allowing work to continue under dangerous conditions. **STATUS: ACTIVE** – Probable cause determined by the Com-

mission on May 11, 2006. On Motion of defendants case has been placed in abeyance pending a MSHA 110(c) investigation. Status report due August 6, 2007.

159. **OMSL v. Ray Lamb**, Docket No. 06-MSRC-002 (Harlan): Action brought by agency against foreman for three violations cited by MSHA. **STATUS: ACTIVE** – Seeking revocation and probation of certifications. Probable cause determination on March 9, 2006. On October 12, 2006, the Commission granted the Cabinet's Default Judgment. Lamb's underground mine foreman's certificate was revoked for two years, his underground mine shot firer's certificate was probated for two years and his underground miner's certificate was probated for two years. After Lamb's revocation period he will be required to retake and pass the Kentucky Underground Mine Foreman Examination. Further, Lamb shall take 8 hours of special safety training.
160. **OMSL v. Kevin R. Yonts and Sonny Ward**, Docket No. 06-MSRC-003 (Martin) filed: 2/23/06. Subject: KDMM inspector conducted an investigation of underground coal mine, followed by two other inspections within the next few weeks. Numerous unsafe conditions/violations were found, many of which placed miners in imminent danger of death or serious injury; e.g., cutting machine with exposed wiring, scoops with inoperable methane monitors and parking brakes, no test holes, absence or damaged roof bolts, cable crossing conveyor without conduit, failure to properly store flammable materials, producing coal over a closure order, etc. The violations were the responsibility of the superintendent Yonts and section foreman Ward. **STATUS: ACTIVE** – Probable cause found March 9, 2006. Settlement Agreements reached were reached with Yonts and Ward prior to the evidentiary hearing scheduled in December 2006. The Settlement Agreements were accepted by the Commission on December 14, 2006.
161. **OMSL v. Phillip Short and Billy Ray McCoy**, No. 06-MSRC-005 (Pikeville): Agency action against named defendants for violations relating to serious electrical accident. Seeking suspensions and probation of certificates. **STATUS: ACTIVE** – Probable cause found on March 9, 2006. Answer filed. Hearing originally set for May 11, 2006. Hearing continued – status report was filed. Held in abeyance. Expect procedural order from Commission to be issued in March. Discovery due April 15, 2007. Hearing scheduled for August, 2007.
162. **OMSL v. Rick Fouts**, No. 06-MSRC-006 (Hazard): Action brought by agency against foreman for method of mining violation involving fatality. **STATUS: CONCLUDED** – Seeking suspension of foreman certification and probation of other certifications. Probable cause determination on March 9, 2006. A Final Order was entered by the Commission on September 14, 2006, approving a Settlement Agreement between OMSL and Fouts. Fouts' underground mine foreman's certificate was suspended for one year. Fouts' underground miner's certificate, EMT certificate, gas detection certificate, and shot firer certification were put on probation for one year. Further Fouts will be required to take 8 hours of special training from OMSL at its Hazard district office.
163. **OMSL v. Alger B. Jent, Jerry D. Morgan & James E. Byrd**, Docket No. 05-MSRC-005 filed: 3/9/05 subject: OMSL inspectors conducted a High Impact Safety Awareness ("HISA") inspection of underground coal mine in response to complaint; numerous unsafe conditions/violations were found, including 7 which placed miners in imminent danger of serious injury or death; e.g., an adequate pre-shift examination for hazardous conditions had not been performed; a crosscut was mined into an unsupported entry; extended continuous miner cuts had not been roof-bolted; various other areas of the mine had unsupported mine roof; miners had worked under unsupported roof; electrical circuits were "bridged out", thus defeating a critical safety feature; cigarette butts were found underground **STATUS: ACTIVE** – MSRC found probable cause against all defendants on 4/14/05; MSRC approved OMSL's settlement agreement with Morgan: electrician's certificate placed on probation for one year, effective 3/23/05; must take electrical training from OMSL's chief electrical inspector; must re-take and pass Kentucky electrical examination within 120 days or electrical card will be suspended until he passes exam. Settlement Agreement approved by the Commission on September 14, 2006. Jerry Morgan – Training completed – **YES**. Passed Exam – **4/26/06**. James Byrd – passed exam – **2/23/06**.
164. **OMSL v. Hobert Hoskins & Rodney Morgan**, Docket No. 05-MSRC-007 filed: 4/8/05 subject: company's approved roof control plan allowed maximum continuous miner cuts of 20 feet; MSHA inspectors found a crosscut cut 43 feet deep, which exposed miners to imminent danger of serious injury or death; Hoskins was the section foreman and Morgan operated the continuous miner; **STATUS: ACTIVE** – MSRC found probable cause against both defendants on 4/14/05; OMSL has entered into settlement agreement with Morgan approved by the Commission on November 11, 2005, wherein his underground miner's certificate was probated for one year from that date; the Commission entered a default judgment against Hoskins on November 11, 2005 that is currently on appeal to Franklin Circuit Court. Hobert Hoskins – Suspension completed: **Yes – 1/9/06**
165. **OMSL v. Homer Sams, Lonnie Rice, Delmas Jackson & Floyd Hibbard**, No. 05-MSRC-009 (Barbourville): Electrical inspections revealed numerous unsafe conditions/violations in the Century Operations No. 4 Mine. Most of the more than twenty (20) violations involved improper alterations of circuits that disabled important safety equipment. **STATUS: ACTIVE** – Probable cause determined on September 8, 2005. Answers filed by Respondents. Settlement terms have been proposed without resolution. Hearing on Motion for Approval of Settlement Agreement for Sams and Jackson is to be held on August 10, 2006. Motion by respondents counsel to withdraw as counsel of record for Rice and Hibbard was granted on July 13, 2006. Evidentiary Hearing for Rice and Hibbard set for September 14, 2006. Motions to withdraw and substitute counsel for all respondents granted by Commission. Settlement agreement hearing taken off the docket, but still under submission. Settlement Agreements approved for all respondents on December 14, 2006. Lonnie Rice – probation of certificates for six months with special training. Homer Sams and Delmas Jackson – probation of certificates for 12 months with special training. Floyd Hibbard – probation of certificates for 24 months with condition that he is not allowed to supervise during probation and special training. Homer Sams – Training completed: **Yes – 2/27/07**. Floyd Hibbard – Training completed: **Yes – 2/27/07**.
166. **OMSL v. Darrell Banks, Onis R. Smith & Conley Horn**, No. 05-MSRC-010 (Martin): Referral of case from MSHA. Inspection by MSHA found smoking materials in the area of active mining. Those miners to whom the materials belonged have been cited and the foreman was cited for failure to conduct a proper search. **STATUS: ACTIVE** – Probable cause determined on September 8, 2005. Answers filed by respondents. The case is being held in abeyance pending the conclusion of a federal investigation. Status report due August 6, 2007.
167. **OMSL v. Simon Ratliff**, Docket No. 05-MSRC-004 filed: February 24, 2005 subject: mine superintendent, whose underground mine foreman's certificate was on probation for previous offense (see No. 03-MSRC-008) committed numerous violations: he required miners under his supervision to work under unsafe conditions (no brakes on equipment; ATRS on roof bolting machine would not reach mine roof); discharged 4 miners for making safety complaints; after miners were reinstated, he discharged them again for filing safety discrimination complaints with MSHA; falsified preshift examination record; attempted to impede federal investigation by instructing miner to lie to MSHA investigators; and repeatedly violated the terms of his probation from prior case **STATUS: ACTIVE** – MSRC found probable cause on April 14, 2005; MSRC allowed three of the miners discharged by Ratliff to intervene on a limited basis. Trial held on March 9, 2006. Order entered June 8, 2006. Underground Miner's certification probated one year. Underground Mine Foreman certificate revoked for two years, with requirement to retake and pass the mine foreman's exam. An Appeal of the Commission's Order was filed in Franklin Circuit Court July 10, 2006.
168. **OMSL v. Willie Sizemore, Jimmy Morgan and Floyd Hibbard**, No. 04-MSRC-002 (Barbourville): Mine superintendent and two section foremen for mine subjected to HISA inspection were held responsible for numerous violations found during the inspection and a follow-up inspection. **STATUS: ACTIVE** – Morgan and Hibbard entered settlement agreements for suspension, probation and retesting. Hearing for Sizemore was held July 14, 2005. Commission entered final order on September 8, 2005 and ordered suspension of foreman's card and suspension of miner's card for seven (7) days, along with retraining and retesting requirements. Sizemore has filed an appeal of the Commission's finding in Franklin Circuit Court. He alleges that the order is unsupported and that the statutes and regulations are unconstitutional. Motion to dismiss filed by Commission, answer filed by OMSL. Jimmy Morgan – Suspension completed: **Yes - 9/21/04**. Training completed: **Yes – 5/24 & 5/25/04**. Floyd Hibbard – Probation completed: **Yes – 3/16/05**. Training Completed: **Yes – 3/31/06**.